

**U.S. Pat. Appl. Ser. No. 10/600,853
Attorney Docket No. 10191/3107
Reply to Office Action of June 29, 2004**

REMARKS

Claims 9 to 19 have been added, and therefore claims 1 to 19 are now pending.

It is respectfully submitted that all of the presently pending claims are allowable, and reconsideration of the present application is respectfully requested.

Applicants note with appreciation the acknowledgment of the claim for foreign priority and that papers submitted under 35 U.S.C. § 119 have been placed of record in the file, and the indication that all certified copies of the priority documents have been received.

In response to the objections to the drawings, a sheet of drawings is submitted to address the objections as to labeling of boxes. Withdrawal of the objections is therefore respectfully requested.

Claims 1 to 4, and 7 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 6,212,456 (the “Stride” reference).

As regards the anticipation rejections of the claims, to reject a claim under 35 U.S.C. § 102, the Office must demonstrate that each and every claim feature is identically described or contained in a single prior art reference. (See Scripps Clinic & Research Foundation v. Genentech, Inc., 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991)). As explained herein, it is respectfully submitted that the Office Action does not meet this standard, for example, as to all of the features of the claims. Still further, not only must each of the claim features be identically described, an anticipatory reference must also enable a person having ordinary skill in the art to practice the claimed subject matter. (See Akzo, N.V. v. U.S.I.T.C., 1 U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986)).

Claim 1 relates to a system for triggering a restraining device and provides for “at least one non-pedestrian-impact sensor for transmitting a first signal [and] at least one pedestrian-impact sensor for transmitting a second signal,” such that a processor triggers the restraining device “as a function of a combination of the first and second signals.”

The “Stride” reference refers to a pedestrian impact sensor system that provides a pressure sensitive matrix, which is a pedestrian-impact sensor, but any review of it makes plain that it does not identically disclose (or even suggest) the features of providing two sensors, one a non-pedestrian-impact sensor and another a pedestrian-impact sensor, such that a processor triggers a

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restraining device as a function of a combination of the signals transmitted by both sensors. Although the “Stride” reference may also refer to a radiated field, such as radar, infrared, etc., which may provide information used in the deployment decision, the radiated field is not an impact sensor. Rather, it is for establishing conditions outside the vehicle. Column 2, lines 32 to 43.

Thus, the “Stride” reference does not identically disclose (or even suggest) each feature of claim 1, so that it does not anticipate claim 1.

Claims 2 to 4, and 7 depend from claim 1 and are therefore allowable for the same reasons as claim 1.

Claim 5 was rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of the “Stride” reference and U.S. Patent No. 6,749,218 (the “Breed” reference).

Claim 5 depends from claim 1 and is therefore allowable for essentially the same reasons as claim 1, since any review of the secondary reference makes plain that it does not cure the critical deficiencies of the primary reference. Accordingly, claim 5 is allowable.

Claims 6 and 8 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of the “Stride” reference and U.S. Patent No. 6,513,831 (the “Stierle” reference).

Claims 6 and 8 depend from claim 1 and are therefore allowable for essentially the same reasons as claim 1, since any review of the secondary reference makes plain that it does not cure the critical deficiencies of the primary reference. Accordingly, claims 6 and 8 are allowable.

As further regards all of the obviousness rejections, to reject a claim under 35 U.S.C. § 103(a), the Office bears the initial burden of presenting a prima facie case of obviousness. In re Rijckaert, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish prima facie obviousness, three criteria must be satisfied. First, there must be some suggestion or motivation to modify or combine reference teachings. In re Fine, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the claimed combination must be found in the prior art and not based on the application disclosure. In re Vaeck, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). Second, there must be a reasonable expectation of success. In re Merck & Co., Inc., 800 F.2d 1091, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Third, the prior art reference(s) must teach or suggest all of the claim features. In re Royka, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Since the references relied upon do not disclose or even suggest

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all of the features of the rejected claims as explained above, it is respectfully submitted that these claims are allowable.

It is therefore respectfully requested that the obviousness rejections be withdrawn.

New claims 9 to 19 do not add any new matter and are fully supported by the present application, including the Specification. Claims 9 to 19 ultimately depend from claim 1, and are therefore allowable for the same reasons as claim 1.

Accordingly, claims 1 to 19 are allowable.

Conclusion

In view of the foregoing, it is respectfully submitted that all of claims 1 to 19 are allowable. It is therefore respectfully requested that the rejections be withdrawn. Prompt reconsideration and allowance of the present application are therefore respectfully requested.

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Respectfully submitted,

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AMENDMENTS TO THE DRAWINGS:

The attached sheet of drawings is submitted in response to the drawing objections as to labeling of boxes, as detailed in the Office Action. Withdrawal of the objections is respectfully requested.